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TAGS: [PGOV](#) [EINV](#) [ECON](#) [ENRG](#) [PREL](#) [SW](#) [AR](#)
SUBJECT: SKANSKA GAS PIPELINE SCANDAL ROCKS KIRCHNER
ADMINISTRATION

Classified By: Ambassador E.A.WAYNE. Reasons 1.5 (B,D)

Summary

¶1. (C) A blossoming corruption scandal is coming closer to linking kickbacks from contractors on a natural gas pipeline expansion public works project to senior GoA Planning Ministry and energy regulatory officials. Multiple judicial investigations and relentless media and opposition party attention to the scandal have become a headache and potential pre-election liability for the Kirchner administration, prompting the President to announce last week that government hands are clean in this case. The crux of the scandal revolves around (1) the scope of GoA control and oversight on half a billion dollars in project tenders to expand and modernize the national natural gas pipeline network by two private national gas pipeline concession companies; and (2) actions taken by pipeline expansion project contractors -- including Swedish construction giant Skanska -- to inflate their project bids, justify additional expenses with phony purchased invoices, and pay a portion of excess revenues in bribes to as yet unknown players.

¶2. (C) President Kirchner, Chief of Cabinet Fernandez and Planning Minister De Vido insist this is a wholly private sector affair between private companies. Many doubt the GoA's claim, however, given close regulatory and technical oversight of the gas pipeline expansion project by the Planning Ministry, the Energy and Public Works Secretariats and by ENARSA, the GoA's natural gas regulatory authority. Subplots of the scandal include whether there has been adequate GoA supervision of "Fideicomiso" trusts. These are privately funded but government-sponsored financing structures not subject to standard public tender oversight

which have become the GoA,s vehicle of choice to finance new big ticket public works. A jurisdictional dispute has developed between a commercial court justice aggressively investigating tax evasion aspects of the case and a federal justice investigating bribery allegations. Alleged pressures on the judge investigating tax evasion has raised questions of possible government interference. Finally, the Chief of Cabinet,s recent efforts to associate the mayor of the city of Buenos Aires (who is running for re-election next month) with the use of public monies to pay similar phony invoices is widely seen as a "best defense is a good offense" attempt by the GoA to distract and confuse the public. While it is hard to predict the play-by-play development of this scandal, it will certainly be used by opposition parties and the media in the run-up to October 2007 federal elections to taint the already dodgy reputation of powerful Planning Minister De Vido and, more broadly, to remind voters of the downside to President Kirchner,s concentration of power in the hands of a few "hombres de confianza" from his native Santa Cruz province. Yet high presidential popularity ratings and continued strong economic growth leave Kirchner administration well positioned to ride out any corruption scandal storm. END SUMMARY

Scandal: Tax Evasion Investigations to Bribery

13. (SBU) The story begins with a 2005 investigation by Argentina's AFIP tax authority and Commercial Court judge Lopez Biscayart of the Caliban-Infiniti Group (CIG), a ghost company whose sole business appears to have been the production and sale of phony invoices to allow purchasing

companies to inflate costs, limit tax liabilities, and possibly conceal illicit payments. According to media sources, CIG issued false invoices to roughly 50 companies, including to the local affiliate of Swedish construction multinational Skanska. Skanska was then a principal sub-contractor in the expansion of Argentina's northern (TGN) and southern (TGS) natural gas pipelines, a GoA priority project to improve the efficiency and capacity of Argentina,s delivery network. In an internal audit conducted October, 2005, Skanska found that a total of Argentine Pesos (Arp) 13.4 million (US\$ 4.3 million) had been paid to purchase 118 false invoices from CIG and from 22 other companies. In March 2006, Skanska authorities testified before the Justice Ministry that local management had "charged improper costs to two projects resulting in erroneous VAT reporting." As a result, Skanska paid the GoA back VAT taxes and fired seven employees, including the head of its Argentina operations. The head of CIG, who remains in custody, testified he was paid Arp 600,000 in exchange for these phony invoices and reportedly implicated (in testimony he later retracted) Planning Minister De Vido and his entourage in the operation. Based on Skanska and CIG testimony, Justice Biscayart expanded his tax evasion investigation to a broader bribery investigation.

14. (SBU) While Biscayart,s investigation has targeted an ever-expanding number of companies for selling and purchasing false invoices to limit tax liability, most media attention to date has focused on the "Caso Skanska." This narrow case alleges irregularities in the bid by Skanska,s local Argentine affiliate to build a natural gas compressor station in Cordoba province as part of the expansion of Argentina's northern gas pipeline operated by Transportadoas Gas del Norte (TGN), in turn controlled by Argentina's Techint Group (with a minority participation by U.S. CMS Corp). The expansion project was funded by a "Fideicomiso" trust. This is a privately funded but government-sponsored financing structure which has become the GoA,s vehicle of choice to finance new big ticket public works. The roughly US\$500 million pipeline expansion "Fideicomiso" was issued as 5-year local currency paper sold to domestic (primarily private pension fund) and international investors at an attractive variable Peso inter-bank rate plus 5%. Repayment of these non-sovereign securities are guaranteed by escrow accounts

which concentrate payments from wholesale natural gas customers who are paying premiums on their natural gas consumption bill over an 8-year period to cover the expansion costs. The GoA calls "Fideicomisos" an economically efficient "user pays" mechanism to fund public works projects.

15. (SBU) While "Fideicomiso"-funded public works projects are distinct from traditional sovereign-funded or guaranteed public works, there remains significant GoA oversight. In the case of this gas pipeline expansion, GoA natural gas regulatory authority, both ENARGAS (headed by Fulvio Madaro who worked in Santa Cruz province for now Planning Minister De Vido) and the Planning Ministry's Secretary of Energy Daniel Cameron (also a Santa Cruz province native) and, to a lesser extent, Planning Ministry Secretary of Public Works Jose Lopez have technical oversight authority over the project. In this case, it is alleged that ENARGAS officials made clear to TGN which sub-contractors, including Skanska, should be given parts of the project.

16. (SBU) In March 2006, TGN advised ENARGAS that Skanska's Arp 28 million bid to build the Cordoba compressor station was roughly 150% over the Arp 11 million originally budgeted by TGN. Recent media reports document a series of letters between TGN and ENARGAS in which, as a result of TGN's objections, the compressor station project was re-bid three times over four months, with Skanska ultimately lowering its bid by roughly 10%. TGN complained that this lower Skanska bid was still far above a reasonable price. Finally, ENARGAS, arguing that this inconclusive process of re-bidding was delaying construction of GoA priority project, instructed TGN to accept Skanska and other bids.

17. (SBU) According to copies of email correspondence between the ex-Skanska CFO and his headquarters published by national daily La Nacion, funds generated from this TGN contract along with funds generated from TGS pipeline and other contract over-pricings were used to pay a total of US\$ 5 million in bribes to unknown recipients. It also noted an aborted payment of US\$ 10 million to Cordoba province-based engineering company Electroingenieria, a company that many have argued has won an outsized share of energy sector public works contracts since 2004 due to its close ties to senior members of the Kirchner administration. (Note: Electroingenieria was also named by President Kirchner in January 2007 to purchase an equity stake in the regulated national electricity transmission monopoly Transener from Brazil's Petrobras following the GoA's rejection of U.S. investment fund Eton Park's purchase contract. End note). Finally, the ex-CFO noted that millions in hush money were paid to Skanska's own officers as the investigation progressed.

Jurisdiction Dispute and Possible GoA Pressure

18. (SBU) In December 2006, as Caso Skanska allegations of bribery of government officials became more prominent in the media, Federal judge Guillermo Montenegro opened a parallel investigation into the case (Note: According to Argentina's legal system, cases involving corruption in the federal government are to be investigated solely by a group of 12 federal judges. End Note). At the same time, Prosecuting Attorney Carlos Stornelli recommended the indictment of Planning Minister De Vido, his Secretary of Public Works Jose Lopez, and the head of Energas Fulvio Madaro.

19. (SBU) An Appeals court will decide shortly which of the two judges, Montenegro or Biscayart will continue to investigate the case, and media reports indicate that Montenegro will likely be given the nod. Commercial Judge Biscayart, arguably the more aggressive of the two in pursuing the investigation, in April accused "unknown persons" of contacting ex-lovers to obtain damaging information. Media reports noted suspicion of SIDE (GoA intelligence service) interference to try to dissuade

Biscayart from continuing his investigation. Subsequently, a magazine linked to the government, Seven Days, published an interview with a former girlfriend of Biscayart who said the judge "is a manic depressive and he wanted to punch me." Separately, Interior Minister Fernandez lodged a complaint against Biscayart over a technicality in the handling of the transfer for questioning of one of CIG principals currently under arrest in the case. The opposition has subsequently attacked the government for going after the judge so that he would kill the Skanska investigation.

Government Claims & Clean Hands8

¶10. (SBU) As the scandal starts to grab front page headlines, especially those of agenda-setting "Clarín," media commentary and opposition party members have suggested) with increasing intensity) that the scandal reaches all the way to the top of the Kirchner administration. In testimony before parliament April 25, Cabinet Chief Fernandez blamed opponents for turning the investigation into a political scandal and said the Skanska case involved corruption among private parties. "If at any moment anyone in Nestor Kirchner's administration is found responsible for an act of bribery or unfaithful public administration, they will be immediately kicked out," Fernandez told lawmakers. The Cabinet Chief also alleged before parliament that fake invoices were used to channel public funds from the Buenos Aires city government, headed by Mayor Jorge Telerman, a political opponent of the Cabinet Chief and candidate for re-election in June.

¶11. (SBU) On April 24, President Kirchner broke his silence on the case, repeating the GoA's contention that this case does not involve the government since the "Fideicomiso"-funded works were not conducted under the regular system of public tenders. He held up his hands palms outward in a public address, saying that his government is &like this8 (e.g. clean hands) on the case.

Comment

¶12. (C) The "Caso Skanska" investigation is the first big scandal of President Nestor Kirchner's four-year administration, just before his "Victory Front" faces re-election in October. Many here argue that this developing corruption investigation is the inevitable consequence of a Kirchner administration that has progressively concentrated power among a group of officials whose ties to the President date from his governorship of small (population under 200,000) Santa Cruz province. Opposition leftist leader and presidential candidate Elisa Carrio has repeatedly said that "Kirchner's administration is the most corrupt in history." The Skanska case has been compared by many to the emblematic mid-1990s IBM scandal which branded the Menem administration as one that both tolerated and promoted privatization and public tender corruption to enrich government officials. The media, barring some exceptions, was once fearful of corruption stories that could destabilize Kirchner's post-crisis equilibrium. Today the media is proceeding with daily major coverage of the Caso Skanska scandal.

¶13. (C) President Kirchner's decision to break his silence on Caso Skanska indicates his concern about the impact it could have on public confidence in his administration. But with the latest polls showing the President holding well over 50% of intended votes in upcoming elections, the Kirchner administration remains well positioned to ride out any corruption scandal storm. So long as near term economic growth and domestic consumption continue to rise, it appears unlikely that any of the current political irritants) the Caso Skanska, provincial teacher strikes, accusations of undue executive pressure on the judiciary) will be viewed by the public as significant enough to seriously undermine

the President's high popularity ratings.
WAYNE